

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

American Federation of State, County and)	
Municipal Employees, Council 31)	
)	
Charging Party,)	
)	Case No. S-CA-22-039
and)	
)	
St. Charles Public Library)	
)	
Respondent.)	

ORDER

On March 31, 2023, Administrative Law Judge Michelle Owens, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge’s Recommendation during the time allotted, and at its August 10, 2023 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, on August 10, 2023.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
LOCAL PANEL**

/s/ Helen J. Kim _____
Helen J. Kim
General Counsel

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

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ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER

On October 22, 2021, the American Federation of State, County and Municipal Employees, Council 31 (Charging Party or AFSCME or Union) filed a charge with the Illinois Labor Relations Board’s State Panel (Board) alleging that the St. Charles Public Library (Respondent or Employer or Library) engaged in unfair labor practices within the meaning of Section 10(a)(1) of the Illinois Public Labor Relations Act (Act) 5 ILCS 315 (2014), as amended, when the Employer maintained an overly broad personal appearance and demeanor policy, more strictly enforced the policy in response to union organizing, and discriminatorily enforced its dress policy. The charge was investigated in accordance with Section 11 of the Act. On May 13, 2022, the Board’s Executive Director issued a Complaint for Hearing.

A hearing was conducted on October 25, 2022, in Chicago, Illinois, at which time the Union presented evidence in support of the allegations and all parties were given an opportunity to participate, adduce relevant evidence, examine witnesses, and argue orally. The parties filed timely post-hearing briefs.

After full consideration of the parties’ stipulations, evidence, arguments, briefs, and motions, and upon the entire record of the case, I recommend the following:

I. PRELIMINARY FINDINGS

The parties stipulate, and I find that:

1. The Employer is a public employer within the meaning of Section 3(o) of the Act.

2. The Employer is subject to the jurisdiction of the Board's State Panel pursuant to Section 5(a) of the Act.
3. The Union is a labor organization within the meaning of Section 3(i) of the Act.
4. Joint Exhibit 1 is the Respondent's Employee Handbook updated January 1, 2021.
5. Joint Exhibit 2 is an email sent on August 5, 2021, by then-Library Director Edith Craig to all Employer staff.
6. Joint Exhibit 3 is an email sent on July 12, 2021, by Craig to all Library staff.
7. Joint Exhibit 4 is the Board's docketing letter dated July 26, 2021, to Craig, who at the time was the Director of the Library, with a copy of the docketed majority interest petition filed with the Board on July 20, 2021, in Case No. S-RC-22-004.
8. Joint Exhibit 5 is an email sent on May 27, 2020, from Craig to all Library staff.
9. Joint Exhibit 6 is an email sent on September 18, 2020, from Craig to all Library staff.

II. ISSUES AND CONTENTIONS

The issue is whether the Employer violated Section 10(a)(1) of the Act when it maintained an overly broad personal appearance and demeanor policy, discriminatorily enforced the policy with respect to employees wearing union t-shirts and union stickers at work, and more strictly enforced the policy in response to union organizing activity among Respondent's employees.

The Union argues that the Employer violated the Act by maintaining an overly broad and vague personal appearance and demeanor policy, applying the personal appearance and demeanor policy in a discriminatory manner to restrict the wearing of union t-shirts and union stickers, and more strictly enforcing the personal appearance and demeanor policy in response to union organizing activity. The Union also maintains that the Employer failed to cure the coercive effects of its directions to employees to remove their union stickers.

The Union maintains that the Employer's personal appearance and demeanor policy, both as written and as applied, is overly broad and vague. The Union maintains that the Library's director herself could not clearly articulate what clothing was and was not permitted under the policy. Further, the Union argues, the Library's director repeatedly changed what clothing the policy permitted through her various emails to employees. The Union asserts that the Employer applied the policy as prohibiting union shirts and stickers as not "appropriate casual business

attire” while allowing other t-shirts, including other graphic t-shirts, and while allowing casual attire that included jeans, sweatshirts, including graphic sweatshirts, denim jackets, leggings, yoga pants, and short. The Union argues the Employer applied the policy to prohibit union stickers as “political” even though union stickers are not political in nature and even though the Employer allowed the wearing of other stickers, buttons, and pins, including ones with messages. The Union asserts that the Employer unlawfully maintained an overly broad and ambiguous rule and unlawfully applied the rule to restrict the exercise of employees’ right to engage in protected, concerted activity by collectively wearing union t-shirts and union stickers at work. The Union also maintains that the Employer applied its personal appearance and demeanor policy in a discriminatory manner to restrict the wearing of union t-shirts and union stickers. The Union argues that the evidence overwhelmingly established a practice of employees routinely and regularly dressing in casual attire that included non-Library t-shirts, including graphic t-shirts, sweatshirts, graphic sweatshirts, jeans, leggings, and yoga pants. The Union maintains that the evidence showed a practice of employees routinely and regularly wearing stickers, buttons, and pins, including stickers, buttons, and pins with logos and messages on them. The Union asserts that the evidence shows that employees wore such t-shirts, stickers, pins, and buttons while interacting with their supervisors, and the Respondent never told employees that their wearing of such items violated the Library’s policy. The Union asserts that the practice went back to the recent past and to the years preceding the Covid-19 pandemic and continued to after the union shirt and union stickers concerted actions in August 2021.

The Union asserts that the Employer failed to establish that any special circumstances justified its prohibition on the wearing of union t-shirts and its restrictions on the wearing of union stickers. The Union argues that even if the Employer’s personal appearance and demeanor policy could arguably be interpreted as restricting employees’ right to wear union insignia, the Employer’s failure to consistently enforce such policy in the past means that the Employer cannot show special circumstances allowing a prohibition on the wearing of union insignia.

The Union further argues that the Employer violated Section 10(a)(1) of the Act by more strictly enforcing the personal appearance and demeanor policy in response to union organizing activity. The Union maintains that the employees routinely wore t-shirts – including graphic shirts, sweatshirts – including graphic sweatshirts, jeans, other denim clothing, leggings, and yoga pants at work, and routinely wore stickers, buttons, and pins – including graphic stickers, buttons,

and pins, at work prior to August 5, 2021, including when the Library was open to the public and including during the years preceding the Covid-19 pandemic. The Union maintains that the Employer more strictly enforced its dress code policy on August 5, 2021, when the library director informed employees that their union shirts violated the dress code and would not be permitted at work; on August 13 and 16, 2021, when a library manager told employees they had to remove their union stickers; and on August 18, 2021, when a library manager informed employees that they could not wear t-shirts unless worn under other shirts, could not wear jeans or denim, and could not wear “political” stickers. The Union maintains that the Employer therefore more strictly enforced its personal appearance and demeanor policy in response to union organizing activity and protected, concerted activity.

The Union also maintains that the Employer failed to cure the coercive effects of its directions to employees to remove their union stickers. The Union asserts that the Employer took no action whatsoever to repudiate its unlawful coercive conduct of telling employees to remove their union stickers.

The Employer asserts that it did not violate the Act because the dress code prohibiting employees from wearing t-shirts to work has been in effect prior to and after union organizing activities, the Library has uniformly enforced the dress code, and the Library allows employees to wear union stickers, except for a single occasion where five employees were advised to remove union stickers, which does not constitute interference, restraint, or coercion as contemplated by the Act.

The Employer asserts that it did not violate the Act because the Library’s dress code prohibiting staff from wearing t-shirts to work has been uniformly enforced and is in furtherance of the Library’s right to maintain its workplace by requiring its employees, who interface with the public, to dress in “appropriate casual business attire.” The Employer asserts that it implemented the dress code to ensure that employees dress professionally, which “is important given the Library’s status as a public institution and employees’ interactions with the public.” The Employer asserts that the dress code “makes clear” that the purpose of the “appropriate casual business attire” requirement is based on the need for the “efficient operation of the Library” and the need for positive interactions with the public as patrons of the Library. The Employer asserts that the dress code is therefore a facially nondiscriminatory workplace rule, which, as a matter of law, the Library may enforce without violating the Act. The Employer asserts that it has consistently applied the

dress code's "appropriate casual business attire" requirement to prohibit employees from wearing t-shirts, other than Library t-shirts or library-themed t-shirts for summer reading. The Employer maintains that t-shirts were not allowed to be worn at work prior to the Union organization effort unless the t-shirts were Library t-shirts or library-connected with summer reading. The Employer further asserts that the Library prohibited t-shirts, unrelated to the Union, after the Union organization efforts. The Employer argues that the Library did not enforce its dress code more discriminatorily or more stringently in response to the employees' union organizing activity. The Employer maintains that the dress code serves a legitimate purpose and had been enforced prior to and after any union organizing activity. The Employer asserts that it has uniformly enforced the dress code – and to the extent it deviated from the dress code was the Library director's "well-intentioned" decision to be "lax" with enforcing the dress code during the Library's temporary renovation project. The Employer maintains that the Library's conduct, when viewed objectively from the standpoint of a reasonable employee, did not interfere with, restrain, or coerce employees in the exercise of rights guaranteed them under the Act.

The Employer asserts that the Union's allegation related to union stickers is based on a single incident on August 13, 2021, where a library manager noticed five employees wearing stickers on their shirts, believed that doing so violated the dress code, and advised the employees to remove their stickers. The Employer argues that other than this single occasion, the Library has allowed employees to wear union stickers at work and there is no evidence of the Library restricting employees from wearing union stickers thereafter. The Employer asserts that the library director met with managers shortly after the incident to make clear that employees have the right to wear union stickers and buttons in the workplace. The Employer contends that the Library's actions during this "single occurrence" which affected only five employees who complied with the request for a single work shift, does not rise to the level of the Library reasonably interfering with, restraining, or coercing employees in the exercise of their rights protected under the Act. The Employer asserts that the Library did not issue or threaten to issue any discipline to the employees or take adverse employment action against them for wearing union stickers. Further, the Employer argues, it is not reasonable to conclude that employees objectively interpreted this single occurrence, affecting only five employees, as interfering with, restraining, or coercing their rights under the Act since Library employees have been permitted to wear union stickers at all times after the incident.

III. FINDINGS OF FACT¹

The St. Charles Public Library (“Library”) is a district library serving approximately 55,000 residents throughout St. Charles and portions of West Chicago and South Elgin. The Library has seven different departments: circulation, adult services, youth services, technology, facilities and maintenance, administration, and communications and marketing. The Library hired Edith Craig as Library Director on November 1, 2016. Craig served as the Library Director for five years. Craig left employment with the Library in 2021. During her time as Library Director, Craig was responsible for working with the Library’s board of trustees to help the Library set and interpret policies, meet financial obligations, and develop and implement the Library’s strategic vision. As Library Director, Craig also directly supervised the Library’s seven department managers.

Renovation Project and Temporary Move

In March 2020, the Library began an \$18.6 million renovation and expansion project. During the renovations, the Library temporarily moved into a vacant school building, Haines Middle School, which was less than half the size of the Library building. The Library was located at the Haines building from March 2020 to May or June 2021.

The Haines building was also undergoing some construction during the time the Library was temporarily located there. The Haines building did not have air conditioning and it was an older building. Craig testified that the Haines building was “not what we would consider a normal library environment.”

The Library’s temporary move to the Haines building coincided with the beginning of the Covid-19 pandemic. During the beginning of the renovation, and the Covid-19 pandemic, the Library offered limited services and was closed to the public. The Library eventually increased its services, beginning with contactless service. Patrons would place orders by telephone, then the employees would place the materials in the vestibule of the Haines building, where patrons would pick up their items. This contactless pick-up service lasted from spring 2020 until summer 2020. The Library reopened to the public sometime during the summer of 2020. Once the Library was open to the public, the Library limited the number of patrons in the building and practiced social distancing. Craig testified that once the Library was open to the public, the interaction of Library

¹ Mark Renard, Brandon Buckley, Sutton Skowron, Anah McMahon, Kersten Wright, Denise Blaszyński, Sara Mackh, Rebecca Dubbert, Joanna Besser, and Joseph Beribak testified on behalf of the Union. Edith Craig and Jesus Renteria, Jr. testified on behalf of the Employer.

staff with the public was “very minimal.” However, the Library still provided a circulation desk where patrons could check out books. Employees would interact with patrons at the circulation desk. The Library also maintained its youth services department, where employees interacted with patrons. Additionally, the Library maintained its adult services department, where employees would also interact with patrons.

Employee Handbook: Dress Code

The Respondent maintains an employee handbook containing its personnel policies. Director Craig testified that reminders or changes to the handbook would be communicated through quarterly all-staff meetings, monthly newsletters, and weekly email updates called “Weekly Happenings.”

The handbook employee includes a “Personal Appearance and Demeanor Policy”, which states:

Discretion in style of dress and behavior is essential to the efficient operation of the Library. Employees are, therefore, required to dress in appropriate casual business attire and to behave in a professional, businesslike manner. Employees should use judgment in their choice of work clothes and should remember to conduct themselves at all times in a way that best represents themselves and the Library.

Staff should not wear clothing or other items that could be considered offensive due to language or image, which might create a barrier in the interaction between staff and patron, or which might affect the patron's level of trust in the information and service provided by the staff member. For the same reasons, caution should be exercised to avoid arguments on personal opinions and beliefs about controversial political issues or social causes while working with or around patrons.

Managers will notify the employee if they believe the individual's apparel, behavior, or grooming does not meet these guidelines, and have the authority to send an employee home on their own time to make necessary changes. If employees have questions about the suitability of their clothing they should speak to their manager.

Certain positions may be allowed clean jeans: Circulation Clerks and Facilities Assistants. These employees must wear closed toed shoes at all times while working.

Employees are also required to keep their work environments clean and orderly. Before departing in the evening, employees should lock all files and cabinets and clear all work materials from desk surfaces, especially materials of a sensitive or confidential nature. Staff members who utilize shared workspaces are discouraged from displaying political, religious or other possibly controversial items in their

workspaces. Employees failing to adhere to proper Library standards with respect to appearance and demeanor are subject to disciplinary action up to and including discharge.

The dress code policy has remained essentially the same for the past thirteen years. Craig testified that the purpose of the dress code policy was “to make sure that because we are a public institution and we interact with the public, that we put on – that staff are dressed in a, ya know, business casual environment” and “because we do interact with the public, we want to present ourselves – I don’t want to say professionally, because it wasn’t, you know, suit-and-tie kind of environment, but in an appropriate dress code environment.” When asked how Craig interpreted the Policy’s meaning of “appropriate casual business attire,” Craig answered, “[w]ell, you know, we didn’t have a list of things that was appropriate or not. But what was generally allowed: Polo shirts, khakis, you know, nice slacks, blouses, sweaters.” Craig further testified that “[w]e allowed nice jeans for staff who kind of worked with the books a lot; our Facilities crew wore jeans. We did allow T-shirts that had library-issued logo or library-themed for summer reading.” Craig clarified that t-shirts were allowed if they were “library logo or library issued.”

Craig also explained that when the Library was closed to the public, and the Library was moving in and out of the Haines building, the dress code was laxer. Craig stated, “we kind of were a lot more lax with the dress code, just considering the environment we were in. And we were closed to the public for most – especially early on in 2020. And, like I said earlier, the conditions, the heat, it was just not feasible.” Craig also stated that while the Library was moved to the new building and closed to the public, she remained lax with the dress code. Craig explained, “[y]ou know, shorts weren’t allowed, just because we were back in our building. But we weren’t as – because we were closed to the public, weren’t as, you know, on the straight and arrow with the dress code back then. It wasn’t until we had our grand opening, that we were opening our doors again for the very first time, that we went back to dress code.” Craig testified that the only employees allowed to wear jeans under the dress code policy in the employee handbook were circulation clerks, also known as shelvers, and facilities assistants. Craig testified that the dress code policy in the employee handbook does not mention employees being allowed to wear t-shirts if they had the Library logo or were Library issued. She testified that “there wasn’t a laundry list of things that were allowed or not allowed on the dress code.”

On May 27, 2020, then-Director Craig sent an email to all Library staff, which stated, in relevant part, “[s]horts! During this unusual period of time, I am allowing shorts while we are running our Pickup Service. I know that the 6th grade wing can get very warm. Please do remember to keep them professional (for example, no torn like shorts).” Craig testified that “during this unusual period of time” referred to employees being in the Haines building and that the Library was closed to the public due to Covid-19. Craig testified that she allowed employees to wear shorts because the Library was not open to the public and because the Haines building was hot.

On September 18, 2020, then-Director Craig sent an email to all Library staff, which stated, in relevant part,

With the changing weather, we are going back to our normal dress code (as stated in the employee handbook). However, I will continue to allow jeans as long as they don’t have holes and are neat. You all have been doing an amazing job and I’m not worried. As a reminder please refrain from wearing:

- Shorts (capris are okay!)
- Flip flops
- Tank tops

If wearing t-shirts, they must be [St. Charles Public Library] shirts. If you are new and don’t have any t-shirts, let me know.

Craig testified that employees were no longer allowed to wear shorts because of the change in season, and warm temperatures were no longer an issue. Craig testified that no employees approached her to question or suggest that her statement regarding t-shirts was inconsistent with past practice.

Union Organizing

In early to mid-April 2021, AFSCME sent a mailing about union organizing to employees at several libraries, including employees at the Library. The Union had obtained Library employees’ names and addresses information through a Freedom of Information Act (FOIA) request. The Union received a response from Library employees.

On April 28, 2021, then-Director Craig sent an email to all Library employees, which stated:

Many of you have been contacted by a union representative recently. Due to a FOIA request, we were obliged to send union representatives all staff work contact information as requested. If you were sent communications at home or on personal cell phones, rest assured that we did not supply this information as it is considered

“personal information” under FOIA.

We feel it is in your best interest to know some important facts, so you can make an informed, knowledgeable decision when it comes to this important subject of bringing union representation and collective bargaining to our organization. ...

Signing the card constitutes your vote for a union and may well obligate you to pay union dues whether you use their services or not.

Anyone considering union representation should, in our opinion, first obtain and review the union’s Constitution and Bylaws to determine what, if any, power the union may have over an employee who signs a union card, or over the employer’s money or desire to work during a strike.

The St. Charles Library has an “open door” policy (in our handbook) and any staff member can approach any member of management with an issue or concern, no matter how small. This could potentially change if a union is selected as your “exclusive” representative. ...

Like any sales person, the union representative likely will make promises, which they may or may not be able to keep. In our view, “promises” are far different from “guarantees.” ...

Electing union representation, in our opinion, likely will change the way the library management forms and exercises relationships with you and individual staff members.

[Emphasis in original].

Sometime after the April 2021 mailing from the Union to Library employees, the Union and Library employees formed an organizing committee. The committee created a mission statement for a Union flyer in which the organizing committee urged fellow employees to join them in organizing a union. The flyer was signed by twenty-four Library employees and listed the contact information of AFSCME Senior Organizer Mark Renard. The Union mailed the flyer to Library employees on July 8, 2021. On July 11, 2021, the flyer was given to organizing committee members, who distributed the flyer to fellow employees.

Reopening of Library

Director Craig testified that she remained lax with enforcing the Library’s dress code until the Library’s grand opening in July 2021. She stated that when the Library moved back into the renovated building and while the Library was still closed to the public, she remained lax with the dress code. She testified, “[y]ou know, shorts weren’t allowed, just because we were back in our

building. But we weren't as – because we were closed to the public, weren't as, you know, on the straight and narrow with the dress code back then. It wasn't until we had our grand opening, that we were opening our doors again for the very first time, that we went back to dress code.”

On July 12, 2021, then-Director Craig sent an email to all St. Charles Public Library staff advising them, inter alia, that the library would reopen to the public on July 16, 2021, and that, as of this date, they must dress in compliance with the Personal Appearance and Demeanor Policy again. Craig stated, in relevant part: “[w]e are going to open our doors Friday at 9:00 a.m. to our patrons!” and “[b]eginning Friday, we revert back to our business casual dress code. As much as I enjoyed jeans and shorts, it is time to close that chapter! Jeans for Charity on Fridays will be instituted later on this year.”

Craig's Response to Union Organizing

On July 15, 2021, then-Director Craig sent an email to all Library employees, which stated, in part:

Union Questions: I have also included the letter I sent out this past April. I believe this letter helps address Brandon's question regarding how a union environment would change our Open Door Policy. Please note that there are limitations on what we can and cannot say. We have to follow the rules of the Illinois Public Labor Relations Act. However, I will be as open and honest with you as I can. In the end, you have the right to make your own choice about whether or not to join a union. I just want you to be informed as possible when you make your decision.

I know that it takes a different type of person to work for a Library than someone who works in big business. There are no sales. There's no profit to worry about. Here we're concerned about people, knowledge, and information. Knowing that you are all special people and have an inherent desire to learn and help our patrons, we have done everything in our power to make this as positive an environment to work in as possible.

For example, I know that wages are often a huge concern for everyone. We have continually analyzed the wages for all positions and adjusted them to make sure that you are all paid fairly.

We have made sure to first promote from within rather than go outside our walls. We're so excited that we just promoted over 5 staff members.

We changed the education assistance plan to open it to more part-time staff members.

We have set up a diversity committee to ensure that we are as open, inclusive, and encouraging as possible.

That's all without having to pay union dues.

Our experience has shown that we have been able to work together fairly and equitably without a union for years. In my opinion, we don't need a union here. Many of the things that unions bargain in other contracts are already in place here.

If we were to get a union, this would all have to be bargained over. Bargaining can take a lot of time and effort. And you'd likely have to pay union dues to actually obtain the same things you're already getting without paying dues.

In our experience, promises are not guarantees. Unions often make a lot of promises. We have always tried to demonstrate through our actions to treat you all fairly including providing you with fair wages and benefits over the years ... without a union. We will continue to do so in the future regardless of your decision. We are always looking for ways to improve how we do things, and I will always make sure that we take your concerns and suggestions seriously.

We have not turned anyone away, not answered questions when asked, not refused to speak to anyone about any subject. No matter what, I intend to continue to have weekly updates and quarterly in person meetings with an opportunity for any questions asked. I want to continue to solicit ideas from staff to improve the excellence of our Library.

If you have further union questions, feel free to continue to ask me or ask Cheryl! Cheryl has a lot of experience dealing with unions in previous roles. She can give you honest opinions.

Craig's July 15, 2021, email included attachments to her April 28, 2021, letter and an April 2021 staff satisfaction survey.

On July 20, 2021, the Union filed a majority interest petition with the Board in Case Number S-RC-22-004 seeking to represent a unit of Library employees.

On July 26, 2021, Craig received a letter from the Board along with a copy of the majority interest petition filed by the Union. In the letter, the Board informed the Employer that it must submit a list of names, job classifications, and signature exemplars of the employees, submit a written response to the petition within 14 days of service, and post a notice to employees.

Union T-shirts

Sometime prior to August 5, 2021, the Union and members of the Union organizing committee organized two concerted actions to take place in August 2021. The first was a union t-shirt day on August 5, 2021, in which employees would collectively wear union t-shirts at work.

Union organizer Renard distributed Union t-shirts to employee organizing committee members who passed them out to other employees. The t-shirt was a dark green color and had the Union logo on the front. The second concerted action was a union sticker day. On that day, the employees would wear green stickers that had the Union library network logo and the message, “Organizing For Our Communities.”

On August 5, 2021, approximately twenty to twenty-five Library employees wore Union t-shirts to work. Craig testified that she saw several employees wearing Union t-shirts and that she told managers to talk to employees about violating the dress code by wearing Union t-shirts.

On August 5, 2021, at approximately 3:00 or 3:30 p.m., Library Communications and Marketing Manager Pam Salomone met with Programs and Public Relations Coordinator Denise Blaszyński, and two other Communications and Marketing Department employees, Lisa Snarski, and Amarelis Morales, in the Communications and Marketing workroom. Salomone is the supervisor of Blaszyński, Snarski, and Morales. Blaszyński and Snarski were wearing Union t-shirts that day. Salomone read from a piece of paper and stated that if an employee had a union shirt on that day, they could not wear that shirt to work and that if they did so in the future, they would be sent home to change clothes. Blaszyński responded that the wearing of the t-shirt was “part of a union activity.” Blaszyński testified that Salomone responded that “it didn’t matter” and employees who wore Union t-shirts were not following the dress code and would be sent home. Blaszyński testified that Salomone also stated that if Blaszyński were to receive any phone calls regarding the Union, she must forward those to Manager Salomone or Director Craig.

On August 5, 2021, at approximately 4:00 p.m., Library employees Kersten Wright and Jane Piriano, who were both wearing Union t-shirts, were called to the office of their supervisor, Assistant Manager of Youth Services Deidre Winterhaulter. When Wright and Piriano arrived at Winterhaulter’s office, Winterhaulter closed the door. She then told Wright and Piriano that Winterhaulter had to read something to Wright and Piriano. Winterhaulter then read from a piece of paper, stating that employees were not supposed to be wearing Union t-shirts, but they were allowed to wear them for the remainder of the day. Winterhaulter also stated that if employees wore them in the future, they would be disciplined up to termination.

On August 5, 2021, at approximately 4:30 p.m., then Adult Services Manager Heidi Krueger informed two employees who were wearing Union t-shirts, Brandon Buckley and Sarah

Slack, that they were in violation of the dress code and that, if they wore “shirts” again, they would be sent home.

On August 5, 2021, at 4:24 p.m., then-Director Craig sent an email to all Library staff, which stated:

All,

Library Policy (Personal Appearance and Demeanor, page 40 of Employee Handbook) requires all employees to dress in appropriate casual business attire. Appropriate casual business attire does not include T-shirts, with the exception of St. Charles Public Library T-shirts.

During the Library's recent renovation project, the Library temporarily modified this Policy to allow employees to dress in casual attire. However, when employees returned to the Library facility in July, management notified employees that employees were to resume dressing in appropriate casual business attire, in accordance with the Library's Policy.

Today, several employees arrived wearing T-shirts in violation of the Library Policy. The Library will allow employees to continue to wear T-shirts only for today's work day. Effective tomorrow, the Library will enforce its Policy requiring all employees to dress in appropriate casual business attire. Employees in violation of the Policy will be sent home to make necessary changes, per the Library Policy.

Craig did not discipline any of the employees who wore union t-shirts on August 5th. The employees who wore union t-shirts to work on August 5, 2021, were allowed to wear the t-shirts for the remainder of the day. No employees were sent home for wearing union t-shirts on August 5, 2021.

Union Stickers

On August 13, 2021, approximately thirteen to twenty-five staff members wore Union stickers to work. Some employees wore the stickers on their shirts, and some wore them on their name tags or lanyards. That same day, between 4:30 p.m. and 5:30 p.m., Library Facilities and Security Manager Junior Renteria went to the Technology Help Desk where employees Rebecca Dubbert and Joanna Besser were working and instructed them to remove their stickers. Renteria testified that he believed that the stickers violated the dress code because they could be interpreted as “political.” Renteria testified that there is always a manager in charge when the Library is open, and the manager in charge makes rounds to check in on employees. Dubbert responded to Renteria’s instruction stating that the stickers were part of a Union action day, the stickers were

not political, and the stickers did not violate the dress code. Renteria stated that he was not “going to argue about it”, and he told Dubbert and Besser that they needed to take their stickers off. Dubbert and Besser then took their stickers off.

That same day, between 5:00 p.m. and 5:30 p.m., Renteria went to the Youth Services Desk where employees Sara Mackh and Amelia Thomas were working. Mackh was wearing a union sticker. Renteria told Mackh she could not wear the sticker, the sticker had to be taken off, and the sticker was political in nature. Mackh took the sticker off.

That same day, at approximately 5:30 p.m., Renteria went to the Public Service Desk on the main floor of the Library where employee Buckley was working and told Buckley to take his sticker off. Renteria further stated that the sticker was either Buckley’s personal opinion or his political opinion. Buckley took the sticker off.

Renteria testified that in his capacity as Manager in Charge on August 13, 2021, he instructed employees to remove their Union stickers because he thought the stickers violated the dress code policy. On August 13, 2021, at 6:14 p.m., Renteria sent an email to Library Human Resources Manager Cheryl Matthews, in which he stated:

When I was performing my rounds as [Manager in Charge] and talking to the different desk staff, I saw that the following people had stickers on either their shirt, access badge and or badge cover. I politely asked them to remove their stickers. All were ok with this request but I did receive a little push back from Rebecca at the IT service desk, but she did comply.

The following employees:

[Adult Services]

-Brandon

-Jane

[Information Technology]

-Rebecca

-Johanna

[Youth Services]

-Sara Mackh

On August 14 and 16, 2021, employee Joseph Beribak wore a Union sticker to work. Beribak was employed at the Library as a Security Assistant from July 2020 to September 2022. He initially reported to Director Craig when he first began working at the Library and then Beribak subsequently reported to Renteria. Beribak wore the sticker on the plastic protector covering his key badge. Beribak had not been at work on August 13, 2021. On August 16, 2021, after arriving

at work, Beribak told fellow employees who were in the office with him that he had put the sticker on his plastic protector. Renteria then called out Beribak from Renteria's office. Renteria told Beribak that he could not wear the sticker and that the sticker was a political statement and was not allowed in the library. Beribak responded, "[a]re you serious?" Renteria responded, "[y]eah, unfortunately." Beribak responded, "okay", and then removed the sticker and threw it in the garbage. Renteria did not issue discipline to any employees for wearing union stickers. Renteria testified that he told a total of six employees to remove their stickers.

Director Craig testified that sometime in August 2021, she learned that employees had worn union stickers at work. Craig testified that approximately a couple of weeks after that she informed the department managers that employees do have the right to wear union stickers and that managers should allow employees to wear them.

Renteria testified that after August 13, 2021, he learned that employees were in fact allowed to wear Union stickers and buttons at work. He testified that his prior directive to employees regarding the wearing of union stickers was a "mistake", and he was "embarrassed." Renteria testified that after being told by then-Director Craig and Human Resources Manager Matthews that employees were allowed to wear union stickers, he did not send an email or make any announcement to the six employees whom he had told to remove their stickers, stating that he was wrong and that the employees were allowed to wear union stickers. Renteria testified that since August 13, 2021, he has not told any employees that they cannot wear union stickers to work.

Craig testified that after the conversation with her managers, she did not prohibit any employees from wearing union stickers in the Library. Craig testified that she could not recall sending an email to employees telling them that they had been incorrectly told to remove the union stickers and that they were allowed to wear union stickers. Craig also testified that she did not do anything to directly tell employees that they could start wearing union stickers nor did she take any steps to tell any employees that they could start wearing stickers since they had been incorrectly told they could not. The Library has not prohibited employees from wearing union stickers or buttons in the workplace since August 2021.

August 18, 2021 Meeting

On August 18, 2021, at 1:30 p.m., Adult Services Department Manager Krueger held a monthly meeting department meeting. Approximately, seventeen employees were in attendance. At the meeting, Krueger told employees that jeans or denim of any kind were not allowed,

including colored jeans or denim, denim jackets, denim shirts, skirts, or anything that resembled denim material. Krueger also told employees that political stickers and buttons were not allowed, and Krueger gave as an example that she had an ACLU button, but she could not wear that. Krueger also stated that t-shirts were not allowed unless they were worn under another shirt or unless the t-shirt was a Library shirt. Krueger also stated that sleeveless tops were acceptable but not spaghetti straps unless worn with a shirt over it.

Certification of Bargaining Unit

On November 10, 2021, the Board certified the Union as the exclusive representative of certain job titles and classifications employed by the Library; four job titles are still in dispute.

Prior practice: T-shirts and Logos

Employee Wright, who has been employed with the Library since 2014, first in the Circulation Department and since 2017, in the Youth Services Department, was told when she began working at the Library in 2014 by then-Circulation Assistant Manager Christine Lees that she could wear t-shirts as long as they were not religious or political in nature and that she could wear jeans. Wright testified that she wore graphic t-shirts to work on the three days immediately preceding the wearing of Union t-shirts on August 5, 2021. None of the shirts had the Library logo on them. On August 2, 2021, Wright wore a red t-shirt with the outline of a tree stump on the t-shirt. That same day, Wright saw Assistant Manager Winterhalter. On August 3, 2021, Wright wore a gray t-shirt with a picture of Nancy Drew's face with the words, "80 years of sleuthing" printed on the t-shirt. On August 4, 2021, Wright wore a Nancy Drew t-shirt with the words "The Secret of the Old Clock" printed on the t-shirt and a picture of Nancy Drew holding a magnifying glass. On August 3 and 4, 2021, Wright saw both Winterhalter and Manager Kelly Stulgate. Neither Winterhalter nor Stulgate told Wright that she was not allowed to wear the t-shirts. Wright also wore the same three t-shirts to work prior to the week of August 5, 2021, on days the Library was open to the public. Wright testified that she also wore plain-colored blue, purple, and yellow t-shirts at work. She also wore other graphic t-shirts, including a t-shirt with Darth Vader playing piano, a t-shirt with Darth Vader holding a light saber, a blue t-shirt with the image of a kitten and a lasso that had the words "kitten wranglers" printed on it, a tie-dye colored t-shirt for a beach party day, a t-shirt that had an image of the book, Anne of Green Gables printed on it, a t-shirt with a dinosaur printed on it, and a t-shirt with a Swedish flag printed on it. Wright testified that none of these t-shirts had the Library logo printed on them. Wright testified that the

kitten t-shirt was from a Library walk event. Wright testified that she wore t-shirts to work on a weekly basis for the entire she worked at the Library starting in 2014, except for a period from fall 2017 to spring 2018 when she briefly wore dresses to work. Wright continued to wear t-shirts, including the tree stump shirt, dinosaur shirt, and a t-shirt embroidered with a worm on it, to work after August 5, 2021. Wright testified that she was not told that she could not wear such shirts to work. Wright testified that Communications and Marketing Manager Salomone and IT Manager Brian Dunk observed Wright wearing the worm shirt and told her that Salomone and Dunk thought the shirt was “cute.”

Wright testified that during the summer of 2022 on a weekend day when the Library was open to patrons, Wright saw her Assistant Manager Lexy Twidell wear a t-shirt that had a book pun on it. The t-shirt did not have the Library logo on it. Twidell was the manager in charge that day, and she commented that she could not send herself home for wearing a t-shirt because she was the only manager in the building. Other than on August 5, 2021, when Wright wore the Union t-shirt, Wright was never told by any supervisor that she could not wear any of the t-shirts she wore to work. Prior to August 5, 2021, for the entire time she worked at the Library, Wright observed approximately six to ten other employees in the Youth Services Department wearing t-shirts that did not have the Library logo at work on a regular basis on days that the Library was open to the public. Wright testified that such t-shirts included shirts with book puns, shirts about a book character, Harry Potter shirts, tie-dye shirts, plain-colored shirts, and striped shirts. In the spring of 2022, Wright observed an employee wearing a mountain t-shirt to work when the Library was open to the public. Since August 5, 2021, Wright has observed Assistant Manager Twidell wearing book-related t-shirts that did not have the Library logo to work. Wright testified that she also observed other employees, including Christine Cedergren, Amy Slagter, Darcy Tatlock, Piriano, Kate Boyle, Thomas, and Ayleesh Cochrane wearing t-shirts that did not have the Library logo to work since August 2021. Such t-shirts included plain-colored t-shirts, striped t-shirts, t-shirts with book puns, and character t-shirts.

Prior to August 5, 2021, employee Buckley wore both t-shirts with the Library logo and t-shirts without the Library logo to work when the Library was open to patrons. Buckley testified that on August 4, 2021, in connection with a one-hour Library tie-dye event, he wore a t-shirt and shorts to work and then kept the shorts on for his entire work shift, which included four hours working at the Public Service Desk. He testified that he was not told to not wear shorts. Buckley

testified that he saw Circulation employee Charlize Vasquez wear t-shirts to work weekly from when she began working at the Library in the summer of 2021 and continuing for about six months until the end of 2021. Such t-shirts included a Prince t-shirt that had “Purple Rain” written on it. Employee Blaszyński testified that she also saw Circulation employee Vasquez wear t-shirts, including graphic t-shirts, at work both prior to and after August 2021 when the Library was open to patrons. Employee Dubbert also observed Vasquez wearing a t-shirt with writing and an image printed on it, which did not have the Library logo on it. Dubbert testified that when she saw Vasquez wearing the t-shirt, the Library was open to the public. Employee Besser also observed employee Velazquez wear t-shirts, including a t-shirt with a number printed on the back, at work after August 5, 2021. Besser testified that the t-shirt Velazquez wore did not have the Library logo on it. Buckley testified that he saw Mason Davis, a Circulation employee, wear t-shirts to work every day from 2017 until the summer of 2022. Besser testified that she saw Circulation Specialist Davis wear solid-color t-shirts at work weekly after August 5, 2021, up until sometime in 2022. Buckley testified he saw Circulation employee Dana Green wear v-neck t-shirts on a regular basis for the sixteen years Green has worked at the Library including in 2022. Buckley testified that he also often saw former Circulation employee Sophia Mathy, who left the Library in the summer or fall of 2022, wear v-neck t-shirts to work, including in 2022.

Employee Sutton Skowron testified that she wore t-shirts that did not have the Library logo on them to work on a regular basis from when she first began working at the Library in October 2017 and continuing to after August 5, 2021. She testified that the t-shirts she wore to work included solid-colored t-shirts. She also wore a black t-shirt that had “Librarian” printed on it in rainbow letters across the front, a t-shirt that had a spaceman character printed on it and “Mission Read” printed on it, a t-shirt that had “Read to Succeed” printed on it, and a t-shirt that had an image of a bat and a book that read “Escape the Ordinary.” Skowron testified that she observed other employees wearing t-shirts including t-shirts that did not have the Library logo on them at work both prior to and after August 5, 2021.

Anah McMahon, a Circulation Associate at the Library since October 2012, testified that she wore t-shirts that did not have the Library logo on them at work on a regular basis prior to August 5, 2021, on days the Library was open to the public. She testified that she wore a black t-shirt and a purple t-shirt. McMahon testified she observed other employees wearing t-shirts at work both prior to and after August 5, 2021, on days that the Library was open to patrons.

McMahon testified that she witnessed Circulation employee Lisa Marsh wearing light-colored t-shirts without the Library logo. McMahon testified that she saw Megan Broski, a Circulation Clerk who left the Library in the summer or fall of 2022, wearing colored Converse sneakers, jeans, and colored t-shirts, without the Library logo, at work both prior to and after August 5, 2021, on days the Library was open to patrons. McMahon testified she saw employee Mathy frequently wearing colored t-shirts without the Library logo at work. McMahon testified she also saw Circulation Specialist Katie O'Brien, who left the Library in the spring of 2022, regularly wearing t-shirts without the Library logo at work. McMahon testified that she wore sweatshirts at work, including a blue hooded sweatshirt and a gray hooded sweatshirt, in the summer and early fall, including the summers of 2021 and 2022 and prior summers. She wore sweatshirts at work both prior to and after August 5, 2021, on days the Library was open to the public. McMahon testified that she observed other employees wearing sweatshirts at work including O'Brien, who wore a gray sweatshirt during the summers of 2021 and 2022.

Employee Blaszyński testified that she wore t-shirts at work one to two times a week prior to August 5, 2021, on days the Library was open to patrons. Blaszyński testified that in 2018, in connection with a Library health and wellness initiative, she was on a walking team with seven or eight Library employees. She testified that all seven or eight of the Library employees wore t-shirts with an image of a dancing avocado. The t-shirts did not have the Library logo on them.

Blaszyński testified that she and other employees, Deb Kippes, Mary Merritt, and Morales, as well as Blaszyński's supervisor, Salomone, also frequently wore such graphic t-shirts to work on days that were not designated health days and on days that were not Library event days. Blaszyński also wore other t-shirts to work since August 5, 2021, on days the Library was open to the public, including plain t-shirts with no Library logo on them.

Blaszyński testified that after the Library reopened to the public in its renovated space in July 2021 and continuing to May 2022, she observed employee Morales wearing plain t-shirts as well as a Kansas City Public Library t-shirt to work on a weekly basis. The t-shirts did not have a Library logo on them. Blaszyński testified that she saw employee Snarski, who worked in the Communications and Marketing Department with Blaszyński until April 2022, wearing a t-shirt with "Ole Miss" printed on it at work from August 2019 until Snarski left Library employment in April 2022, including when the Library was open to the public. Blaszyński testified she observed

a former Circulation employee wearing graphic t-shirts at work in 2017 and 2018 when the Library was open to the public.

Blaszynski testified that she wore a red sweatshirt with the University of Louisville logo on it for about two years starting in 2016. She was not told by any supervisor not to wear the sweatshirt at work. She also testified that employee Craig Pierce, who worked in the Communications and Marketing Department with Blaszynski from 2015 to 2017, wore a sweatshirt with a Butler University logo on it. He wore this sweatshirt at work while employees were working in the same work area as Manager Salomone. Blaszynski testified that Tim Kirsininkas, who worked in the Communications and Marketing Department with Blaszynski from 2018 to 2019, wore a sweatshirt with a Northern Illinois University logo on it for the entire time he worked at the Library, while the Library was open to the public.

Prior to August 5, 2021, Blaszynski wore denim jeans to work from the time she was hired in April 2013 and up until after July 12, 2021, when the Library reopened to the public in its renovated space and when the Library was opened to patrons. She testified that she encountered her supervisor Salomone and other supervisors, including Krueger, while Blaszynski was wearing jeans. Blaszynski also wore a denim jacket and a denim shirt at work prior to August 5, 2021. Since August 5, 2021, Blaszynski has worn gray jeans at work on days that were not designated as “Jeans for Charity” days. Jeans for Charity was a Library initiative started by Skowron in which employees paid two dollars to charity and were able to wear jeans on a Friday and the following weekend.

Blaszynski testified that she observed employees, including supervisors, wear yoga pants and leggings to work when the Library was open to the public. She testified that she saw Manager Krueger wearing yoga pants to work every week or two for four to five years prior to leaving the Library in August 2022. Blaszynski testified that Morales wore yoga pants to work until Morales left the Library in 2022. Blaszynski testified that a communications employee as well as several employees in the Circulation Department have worn yoga pants to work.

Employee Beribak testified that when he was hired, then-Director Craig told him that as a Security Assistant, he was permitted to wear jeans and that until his security shirt arrived, he could wear a plain, black t-shirt. Beribak testified that he wore a plain black t-shirt to work for several weeks after he began working at the Library. He testified that he also wore black jeans to work at times throughout the time he worked at the Library. He testified that he wore a plain black t-shirt

on a few occasions prior to August 5, 2021, while the Library was open to the public after he received his security shirt on days that he had forgotten his security shirt at home. Beribak testified that he was not told by any supervisor that he could not wear the t-shirt at work.

Employee Mackh testified that in 2017, when she worked in the Circulation Department, she observed her co-worker in the Circulation Department, Jennifer Naylor, frequently wearing a t-shirt with a hamsa symbol printed on it. Mackh testified that in the spring of 2018, in connection with a Library wellness walking competition, Mackh and several other employees wore blue t-shirts with “kitten wranglers” printed on them. The t-shirts did not have the Library logo on them. Mackh testified that she continued to wear the “kitten wranglers” t-shirt at work on other days when the Library was open to the public. Mackh testified that in 2018, she observed employee Tatlock wearing a graphic “Marvel” T-shirt on a day when the Library was open to patrons.

Employee Mackh testified that she wore black jeans at work once or twice a week after the Library reopened to patrons in July 2021 until approximately September 2021, when Mackh started to wear maternity clothes. Mackh testified that she interacted regularly with Manager Stulgate and Assistant Manager Winterhalter while wearing jeans, and no supervisor said anything to her about wearing jeans. Mackh testified she wore a sweater with the word “Gryffindor” printed on it and an emblem of a lion on it. She wore the sweater at work in February 2019 and frequently on other days when the Library was open to the public.

Employee Besser testified that she wore t-shirts to work throughout the spring of 2020 until July 2021, including one with an image of a white cat reading a book printed on it. The t-shirt did not have a St. Charles Library logo on it.

According to then-Director Craig, she was aware of one time after August 5, 2021, when a “newer” employee wore a graphic t-shirt to work, and Craig asked Manager Renteria, the employee’s manager, to talk to the employee about the shirt. Craig sent an email on March 11, 2022, to Renteria stating, “Can you please let Sam know that graphic t-shirts are not part of our dress code here?” Craig testified that the instances of the employee wearing a graphic t-shirt on March 11, 2022, and employees wearing union t-shirts on August 5, 2021 were the only two instances in which Craig had told employees that they were violating the dress code policy by wearing t-shirts.

Prior Practice: Stickers, Buttons, and Pins

In 2015 and 2016, about fifteen employees wore buttons saying “Team Sam” in support of a co-worker whose son was in a coma following a car accident.

Employee Skowron testified that she wore stickers and pins on her lanyard at work on a daily basis both prior to and after August 13, 2021. She has worn an “I voted” sticker on election days. She has worn a pin, given to her by Krueger, that said, “Blanket Burrito” with an image of an amole or hedgehog wrapped in a blanket. Skowron has also worn pins including one with an image of a cat in a bookcase and one that said, “kind of busy being a librarian and cat mom.”

Employee McMahan testified that she observed employee Marsh wearing a pin with the image of a fox on her lanyard. McMahan testified that she also saw employee Davis wearing a “Mandalorian” pin on his lanyard both before and after August 13, 2021.

Employee Blaszyński has worn a button that said, “dazzling” on her lanyard at work after August 13, 2021, when the Library was open to patrons, and she was not told to take the button off.

Employee Mackh, beginning in September 2018 when employees wore magnetic name tags rather than lanyards, wore a small pink star affixed to her name tag. In February 2019, she affixed a purple flower onto the same name tag. She wore such stickers on her name tag when the Library was open to patrons, including when she was interacting with supervisors. In September 2018, while wearing the star sticker on her name tag, Mackh interviewed with Stulgate and with Human Resources Manager Matthews for a full-time Youth Services Librarian position and neither Stulgate nor Matthews said anything to her about wearing the sticker.

Employees began wearing lanyards in June or July 2021 when they moved to the renovated building. At that time, Mackh had worn buttons with faces of characters from the Japanese animated cartoon “JoJo’s Bizarre Adventure” on her lanyard at work every day after the Library reopened to patrons in July 2021. Shortly after August 13, 2021, Mackh added a pin of a bird to her lanyard. On August 19, 2021, Mackh met with her supervisor, Stulgate while she was wearing the buttons and pins on her lanyard, and Stulgate did not comment on them. Mackh testified that Stulgate was wearing a button with a pineapple on her lanyard. Mackh testified that a co-worker had brought in “fun” pins for the employees to wear on their lanyards and they were all wearing them. In February 2022, Mackh began wearing a Cub Scouts pin attached to her lanyard, and in June 2022, she added a button with her pronouns to her lanyard. Mackh testified that she had met

with her supervisor while wearing such buttons. On September 19, 2022, the Library's "Talk Like a Pirate" Day, Mackh wore a sticker of a parrot dressed like a pirate on her name badge. Mackh has kept the parrot sticker on her lanyard since that day. Mackh testified that she interacted with her Manager Stulgate and with Assistant Manager Twidell while wearing the parrot sticker. In November 2021, while wearing a bird and animated cartoon buttons on her lanyard, Mackh met one-on-one with then-Director Craig to prepare a presentation for an all-staff in-service. Mackh testified that she also wore the buttons when Mackh and Craig gave their presentation, and no supervisor said anything to her about wearing the buttons.

Mackh testified that she observed her co-worker Boyle wear "Mr. Rogers' Neighborhood" buttons regularly at work including when the Library was open to patrons.

Employee Dubbert testified that prior to August 13, 2021, Dubbert wore "I voted" stickers to work after voting. Since August 13, 2021, Dubbert has worn Library buttons as well as non-Library buttons including a "Kent State University" button on it and a "Reading Line" pin. Dubbert wore such buttons and pins at work on days the Library was open to patrons.

Prior to and after August 13, 2021, from the Library's reopening in July 2021 to the time of the hearing in this case, employee Besser testified that she has worn several different buttons and pins on her lanyard at work, including some that did not have the Library logo on them. Such buttons and pins included one that said "I read banned books"; one that said "to read or not to read"; one with a white cat with a Harry Potter scarf; and one with a bookworm with reading glasses that said "bookworm" on it. Prior to the Covid-19 pandemic, in June or July 2019, at the request of one of her co-workers, Besser, and other employees wore a rainbow heart-shaped sticker during Pride Month. The sticker was not worn in connection with a Library event and did not have the Library logo on it.

IV. DISCUSSION AND ANALYSIS

The Employer violated Section 10(a)(1) of the Act when it applied its dress code in a discriminatory manner, more strictly enforced the policy in response to union organizing activity among employees, and prohibited employees from wearing union t-shirts and union stickers. The

Employer thereby interfered with, restrained, or coerced employees in the exercise of their rights under the Act.

Section 6 of the Act protects employees' right to engage "in other concerted activities not otherwise prohibited by law for the purposes of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion." 5 ILCS 315/6. Section 10(a)(1) of the Act provides that an employer commits an unfair labor practice when it interferes with, restrains, or coerces public employees in the exercise of the rights guaranteed in the Act. 5 ILCS 315/10(a)(1). An employer violates Section 10(a)(1) of the Act when it engages in conduct that reasonably tends to interfere with, restrain, or coerce employees in the exercise of rights protected by the Act. City of Lake Forest, 29 PERI ¶ 52 (IL LRB-SP 2012); City of Mattoon, 11 PERI ¶ 2016 (IL SLRB 1995); Clerk of the Circuit Court of Cook Cnty., 7 PERI ¶ 2019 (IL SLRB 1991); State of Ill., Dep'ts of Cent. Mgmt. Servs. & Conservation, 2 PERI ¶ 2032 (IL SLRB 1986); City of Chicago, 3 PERI ¶ 3011 (IL LLRB 1987).

The test to determine whether an employer's conduct violates Section 10(a)(1) of the Act is objective, not subjective. Clerk of the Circuit Court of Cook Cnty., 7 PERI ¶ 2019. The test asks whether the employer's conduct, viewed objectively from the standpoint of a reasonable employee, had a tendency to interfere with, restrain or coerce the employee in the exercise of a right guaranteed by the Act. Id.; Conservation, 2 PERI ¶ 2032. The employer's motivation is irrelevant. Id.; City of Lake Forest, 29 PERI ¶ 52; Champaign-Urbana Public Health Dist., 24 PERI ¶ 122 (IL LRB-SP 2008). There is no requirement of proof that the employees were actually coerced or that the employer intended to coerce the employees in order to establish a violation of Section 10(a)(1) of the Act. Vill. of Calumet Park, 23 PERI ¶ 108 (IL LRB-SP 2007).

A. Discriminatory Application of Dress Code Policy

The Employer violated Section 10(a)(1) of the Act by applying its personal appearance and demeanor policy in a discriminatory manner.

In County of Cook, the court adopted and applied the approach set forth by the National Labor Relations Board in Lutheran Heritage to determine whether an employer's work rule violates the Act. County of Cook, 2017 IL App (1st) 152993, ¶ 53. Under Lutheran Heritage, a rule that explicitly restricts protected activity is unlawful. Cnty. of Cook, 2017 IL App (1st) 152993, ¶ 51, citing Martin Luther Memorial Home ("Lutheran Heritage"), 343 NLRB 646, 646

(2004).² If the work rule does not explicitly restrict protected activity, the rule is unlawful under any of the following conditions: (1) employees would reasonably construe the language to prohibit protected activity; (2) the rule was promulgated in response to union activity; or (3) the rule has been applied to restrict the exercise of protected rights. Cnty. of Cook, 2017 IL App (1st) 152993, ¶ 51. The Board has also recognized that the application of a facially neutral work rule is a violation of the Act if a respondent applies it in a discriminatory manner. City of Lake Forest, 29 PERI ¶ 52; Chicago Transit Auth., 32 PERI ¶ 178 (IL LRB-LP 2007); Chicago Transit Auth., 20 PERI ¶ 80 n.9 (IL LRB-LP 2004). Similarly, an employer’s more stringent enforcement of its work rules is unlawful when it is a consequence of employee participation in protected activity. In Re Schrock Cabinet Co., 339 NLRB 182, 183-84 (2003).³

Here, I find that the Employer’s dress code as written is facially neutral and facially non-discriminatory as it does not explicitly restrict protected activity. The Library’s personal appearance and demeanor policy provides, among other things, that employees are required to dress in “appropriate casual business attire”, that employees should “not wear clothing or other items that could be considered offensive due to language or image”, and that employees in shared workspaces are “discouraged from displaying ... possibly controversial items in their workspaces.” The policy does not explicitly state that union t-shirts, union buttons, or other union insignia are not allowed to be worn by employees.

However, the Employer violated the Act by applying the dress code in a discriminatory manner. The Employer’s arguments that the prohibition on employees wearing t-shirts to work had been in effect prior to and after union organizing activities, that the Library uniformly enforced the dress code, and that the Library allowed employees to wear union stickers, except for a single occasion where five employees were advised to remove union stickers are unconvincing. Initially, the Library’s dress code policy does not explicitly provide that t-shirts, sweatshirts, buttons, stickers, or pins as a whole are prohibited. Director Craig testified that there was not a list of the types of dress that were considered “appropriate”, and that the Library did allow t-shirts that had “library-issued” logos or were “library-themed for summer reading.” Further, the evidence

² Although the National Labor Relations Board overruled Lutheran Heritage, its principles remain law in Illinois by virtue of the Illinois Appellate Court's decision in Cook County, 2017 IL App (1st) 152993. Boeing Co., 365 NLRB No. 154 (2017), overruling Lutheran Heritage, 343 NLRB 646.

³ This principle outlined in this case was also cited in two non-precedential RDOs. See State of Ill., 35 PERI ¶ 172 (IL LRB-SP ALJ 2019); CGH Medical Center, 39 PERI ¶ 55 (IL LRB-SP ALJ 2022).

showed that both prior to and after August 2021, employees wore various types of graphic and plain t-shirts, graphic and plain sweatshirts, stickers, buttons, and pins that were not library-issued or library-themed to work on days that the Library was open to patrons, in the presence of supervisors and managers, and employees were not told that they could not wear such t-shirts, sweatshirts, stickers, buttons, or pins to work or that the t-shirts, sweatshirts, stickers, buttons, or pins violated the dress code policy. As such, the Employer had established a practice of allowing employees to wear such items.

Yet, on August 5, 2021, numerous employees wore union t-shirts, and the employees were told that the wearing of t-shirts violated the dress code policy and that the t-shirts could not be worn in the future. Additionally, on August 13 and 16, 2021, employees wore union stickers and were told that the wearing of the stickers violated the dress code policy and could not be worn. Notably, the only other instance of an employee being told that they could not wear a graphic t-shirt occurred in March 2022, when then-Director Craig asked Manager Renteria to inform one employee that graphic t-shirts were not allowed under the dress code policy. Notably, this instance occurred after the relevant events of this case, and after the unfair labor practice charge had been filed. As such, this instance bears no weight here.

The Employer discriminatorily applied its dress code to restrict employees from wearing union t-shirts and union stickers at work while allowing employees to wear other t-shirts, including non-library issued and non-library-themed graphic t-shirts, graphic sweatshirts, stickers, buttons, and pins at work. The Employer's disparate application of its dress code policy would impress, upon a reasonable employee, that employees who wore union t-shirts and stickers received different treatment because the t-shirts and stickers exhibited support for the Union. As such the Employer violated Section 10(a)(1) of the Act. See City of Lake Forest, 29 PERI ¶ 52.

B. Stricter Enforcement of Dress Code Policy in Response to Union Activity

The Employer violated Section 10(a)(1) of the Act when it more strictly enforced its dress code policy in response to union activity. The evidence established that employees wore graphic t-shirts, graphic sweatshirts, stickers, buttons, and pins at work prior to August 5, 2021. However, as noted, on August 5, 2021, the day employees wore union t-shirts to work, then-Director Craig and other Library supervisors informed employees that the wearing of union t-shirts violated the dress code, and the t-shirts were not allowed to be worn at work. Further, as noted, on August 13, 2021, when employees wore union stickers to work, Manager Renteria informed employees that

they had to remove their union stickers. Additionally, on August 18, 2021, Library Manager Krueger informed employees that they could not wear jeans, denim, or t-shirts unless worn under another shirt and that they could not wear “political stickers.” Even assuming arguendo that the Library had a policy of not allowing employees to wear t-shirts, the record clearly demonstrates that such a policy was not consistently observed. The evidence, as noted, established that employees had worn t-shirts, including graphic t-shirts, prior to August 5, 2021, and had not been informed that the wearing of t-shirts violated the Library’s dress code. Thus, the Employer more strictly enforced its dress code policy in response to union organizing activity, and thereby violated Section 10(a)(1) of the Act. See In Re Schrock Cabinet Co., 339 NLRB at 183-84.⁴

C. Prohibition on Wearing Union T-shirts and Stickers

The Employer violated Section 10(a)(1) of the Act when it prohibited employees from wearing union t-shirts and union stickers.

The Board has held that employees have the right to wear union-related pins and insignia in the workplace, but the right must be balanced against the employer’s right to manage its operations in an orderly fashion. City of Lake Forest, 29 PERI ¶ 52, citing State of Ill., Dept’s of Central Mgmt. Servs. & Corrections, 25 PERI ¶ 12 (IL LRB-SP 2009) (employer violated the Act by prohibiting employees from wearing “No Scabs” pins in the workplace). An employer's rule “which curtails that employee right is presumptively invalid unless special circumstances exist which make the rule necessary to maintain production or discipline, or to ensure safety.” Id., (citing Kendall Co., 267 NLRB 963, 965 (1983); Singer Co., 199 NLRB 1195 (1972); Fabric Servs., 190 NLRB 540 (1971); Eckerd’s Market, 183 NLRB 337 (1970)). “Substantial evidence of special circumstances, such as interference with production or safety, is required before an employer may prohibit the wearing of union insignia, and the burden of establishing those circumstances rests on the employer.” Corrections, 25 PERI ¶ 12. Special circumstances exist “where an employer enforces a policy that its employees may only wear authorized uniforms in a consistent and nondiscriminatory fashion and where those employees have contact with the public.” City of Lake Forest, 29 PERI ¶ 52, citing Burger King Corp. v. NLRB, 725 F.2d 1053 (6th Cir. 1984). Other examples of special circumstances where the NLRB and courts have allowed employers to restrict or limit employees’ rights to wear union-related insignia have

⁴ As noted previously, the principle outlined in this case was also cited in two non-precedential RDOs. See State of Ill., 35 PERI ¶ 172; CGH Medical Center, 39 PERI ¶ 55.

involved circumstances where the slogans at issue denigrate the employer's product or business, where the slogan is patently offensive and vulgar, where the employees have significant contact with the public, for the purposes of maintaining employee efficiency and discipline, and in order to maintain dress uniformity among employees with regular contact with the public. Corrections, 25 PERI ¶ 12, citing Davison-Paxon Co. v. NLRB, 462 F.2d 364 (5th Cir. 1972), Midstate Tel. Co. v. NLRB, 706 F.2d 401 (2d Cir. 1983), Sw. Bell Tel. Co., 200 NLRB 667 (1972), Fabri-Tek, Inc. v. NLRB, 352 F.2d 577 (7th Cir. 1965), United Parcel Service v. NLRB, 41 F.3d 1068 (6th Cir. 1994), Burger King Corp., 725 F.2d 1053.

In this case, I find that the Employer violated the Act by prohibiting employees from wearing union t-shirts and stickers at work. The Employer does not dispute that the wearing of union t-shirts and union stickers constitutes protected, concerted activity under the Act. Further, the Employer admits that a library manager directed employees to remove their union stickers on August 13 and 16, 2021. However, the Library asserts that it later allowed employees to wear union stickers, and the library manager's directive to employees had been in error. Even though the Employer later allowed employees to wear union stickers, a violation of the Act still occurred because the Employer did not adequately inform employees that the prohibition banning all union-related stickers had been rescinded, and employees reasonably could have continued to believe they were not allowed to wear any union-related stickers. See Corrections, 25 PERI ¶ 12. To effectively cure unlawful actions, an employer must repudiate the unlawful conduct; the repudiation must be timely, unambiguous, specific in nature to the unlawful conduct, and free from other proscribed conduct; there must be adequate publication of the repudiation to the employees involved; the employer must not have engaged in any proscribed conduct after the publication; and the repudiation must assure the employees that the employer will not interfere with their rights under the Act in the future. Id. In this case, the Employer failed to establish that it adequately publicized the repudiation of its unlawful conduct to the affected employees or that it assured the employees that the Employer would not interfere with their rights under the Act in the future. Director Craig testified that a couple of weeks after Manager Renteria instructed employees to remove their union stickers, she informed department managers that employees have the right to wear union stickers. However, Craig testified that she did not send any email to employees informing them that they had incorrectly been told to remove union stickers and that they were in fact allowed to wear union stickers. Craig also did not in any way directly inform employees that

they could start wearing union stickers. Similarly, Renteria testified that he did not send any emails or make any announcements to the affected employees informing them that they were in fact allowed to wear union stickers and that Renteria's prior directive to remove the union stickers was in error. Additionally, the evidence failed to show that the Employer assured employees that the Employer would not interfere with their rights under the Act in the future.

Further, even assuming that the Employer's dress code policy prohibited the wearing of all t-shirts, including union t-shirts, the Employer, as noted, did not consistently enforce the policy in the past and as such cannot show special circumstances allowing a prohibition on the wearing of union t-shirts. See Wal-Mart Stores, 364 NLRB 1729, 1760-61 (2016) ("an employer may not use an inconsistently applied uniform policy to establish special circumstances").⁵ The Employer however asserts that it implemented its dress code to ensure that employees dress professionally, "which is important given the Library's status as a public institution and employees' interactions with the public." However, the burden is on the Employer to establish substantial evidence of special circumstances, and the Employer has failed to meet that burden here. See Corrections, 25 PERI ¶ 12. The Employer has not demonstrated special circumstances that outweigh employees' right to wear union insignia. Even if the Employer had shown special circumstances permitting the prohibition of wearing t-shirts, the rule is nonetheless unlawful because the Employer has applied the rule in a discriminatory manner, prohibiting the wearing of union t-shirts while also permitting the wearing of other t-shirts. See City of Lake Forest, 29 PERI ¶ 52. Thus, the Employer violated Section 10(a)(1) of the Act by prohibiting the wearing of union t-shirts and union stickers.

V. CONCLUSION OF LAW

The Employer violated Section 10(a)(1) of the Act when it applied its dress code in a discriminatory manner, more strictly enforced the dress code policy in response to union organizing activity among employees, and prohibited employees from wearing union t-shirts and union stickers.

⁵ The principle outlined in this case was also cited in a non-precedential RDO. See State of Ill., Dep't of Central Mgmt. Servs. (State Police), 35 PERI ¶ 16 (IL LRB-SP ALJ 2018).

VI. RECOMMENDED ORDER

IT IS HEREBY ORDERED that the Employer, its officers, and agents, shall:

- 1) Cease and desist from:
 - a. Discriminatorily applying its personal appearance and demeanor policy.
 - b. More strictly enforcing its personal appearance and demeanor policy in response to union activity.
 - c. Prohibiting employees from wearing union t-shirts, union stickers, and/or other union insignia at work.
 - d. In any like or related manner, interfering with, restraining, or coercing employees in the exercise of their rights under the Act.
- 2) Take the following affirmative action necessary to effectuate the policies of the Act:
 - a. Permit employees to wear union t-shirts and union stickers at work, to the extent that the Employer has not already done so.
 - b. Rescind the directives to employees regarding the wearing of union t-shirts and union stickers, to the extent that the Employer has not already done so.
 - c. Post, at all places where notices to employees are normally posted, copies of the Notice attached to this document. Copies of this Notice shall be posted, after being duly signed, in conspicuous places, and be maintained for a period of 60 consecutive days. The Employer will take reasonable efforts to ensure that the notices are not altered, defaced, or covered by any other material.
 - d. Notify the Board in writing, within 20 days from the date of this Decision, of the steps the Employer has taken to comply with this order.

VII. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within seven days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions.

Exceptions, responses, cross-exceptions, and cross-responses must be filed with the Board's General Counsel, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, or to the Board's designated email address for electronic filings, at ILRB.Filing@Illinois.gov. All filings must be served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement of listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

Issued at Chicago, Illinois this 31st day of March, 2023

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

/s/ Michelle N. Owen

**Michelle N. Owen
Administrative Law Judge**

NOTICE TO EMPLOYEES

FROM THE ILLINOIS LABOR RELATIONS BOARD

Case No. S-CA-22-039 (American Federation of State, County and Municipal Employees, Council 31 and St. Charles Public Library)

The Illinois Labor Relations Board, State Panel, has found that the St. Charles Public Library has violated the Illinois Public Labor Relations Act and has ordered us to post this Notice. We hereby notify you that the Illinois Public Labor Relations Act (Act) gives you, as an employee, these rights:

- To engage in self-organization
- To form, join or assist unions
- To bargain collectively through a representative of your own choosing
- To act together with other employees to bargain collectively or for other mutual aid and protection
- To refrain from these activities

Accordingly, we assure you that:

WE WILL cease and desist from discriminatorily applying our personal appearance and demeanor policy.

WE WILL cease and desist from more strictly enforcing our personal appearance and demeanor policy in response to union activity.

WE WILL cease and desist from prohibiting employees from wearing union t-shirts, union stickers, and/or other union insignia.

WE WILL cease and desist from, in any life or related manner, interfering with, restraining, or coercing our employees in the exercise of their rights under the Act.

DATE _____

St. Charles Public Library
(Employer)

ILLINOIS LABOR RELATIONS BOARD

801 South 7th Street, Suite 1200A
Springfield, Illinois 62703
(217) 785-3155

160 North LaSalle Street, Suite S-400
Chicago, Illinois 60601-3103
(312) 793-6400

**THIS IS AN OFFICIAL GOVERNMENT NOTICE
AND MUST NOT BE DEFACED.**
